

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **ISSUE**

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition causally related to the accepted factors of her federal employment.

## **FACTUAL HISTORY**

On August 25, 2016 appellant, then a 54-year-old customer care agent, filed an occupational disease claim (Form CA-2) alleging that she sustained a finger condition of both hands while in the performance of duty.<sup>3</sup> She advised that she was waiting for the doctor to confirm her diagnosis. Appellant indicated that she first became aware of her claimed condition and realized its relationship to her employment on June 23, 2016. She stopped work on June 23, 2016.

In an August 5, 2016 statement, appellant indicated that she began working at the employing establishment in March 2013 at a call center as a customer care representative. She noted that she was informed that the job required light typing, which was not the case because there was significant typing involved. Appellant noted that she worked 10 hours a day, four days a week. She explained that, due to her pain, her hours were reduced to four hours a day, four days a week. Appellant explained that the typing she was required to do daily started causing pain in her fingers, “like locking in the joints.” She advised that the pain was in the fingers of both hands and it was aggravated over time while she worked at the call center.

OWCP received a July 5, 2016 letter from the employing establishment regarding appellant’s position and duties as a customer care agent. Appellant’s duties required her to engage in seated work 8 hours per day, with intermittent standing and walking 2 hours per day, and intermittent climbing and kneeling of 15 minutes. The physical requirements indicated that appellant could sit in an office chair with a supportive back or stand at a workstation as needed for comfort and occasionally grasp a mouse. Appellant was also required to use a computer mouse, interchangeable to the right or left side as needed for comfort and occasionally use fine manipulation or a single finger when using a keyboard. It was noted that the call agent workstation included chairs that were ergonomically designed and adjustable. Further, it included that appellant used a computer keyboard and mouse intermittently for approximately 24 minutes per hour or a maximum of 3.2 hours per 8-hour shift during conversations with customers. It was noted that “no continuous computer mouse movement is involved.” Additionally, a headset was provided to answer calls and there was no use of a telephone handset to grip or grasp. The position also included intermittent handling of sheets of paper and an erasable board for taking notes during conversations with customers.

By development letter dated September 30, 2016, OWCP informed appellant of the type of evidence needed to support her claim, including a narrative medical report from her attending physician. It particularly requested that appellant complete a questionnaire and describe the

---

<sup>3</sup> Appellant began working for the employing establishment on June 1984 as a letter carrier. She has a prior occupational disease claim with a September 14, 2007 date of injury, accepted by OWCP for bilateral carpal tunnel syndrome, neck sprain, and left shoulder impingement syndrome. That claim was assigned OWCP File No. xxxxxx959. In March of 2013, appellant was offered light-duty work as a customer care assistant.

duration and frequency of typing she performed.<sup>4</sup> It afforded her 30 days to submit the requested evidence. No evidence was submitted.

By letter dated September 30, 2016, OWCP requested that the employing establishment also provide details regarding the position. Both appellant and the employing establishment were afforded 30 days to respond.

In a September 1, 2016 response from the employing establishment, which was received on October 6, 2016, N.V., a supervisor of the customer care center, provided additional information and controverted the claim. She noted that appellant's job duties were congruent with her physical restrictions. N.V. explained that the customer care agent duties were specifically made in strict compliance with appellant's medical work restrictions. She noted that appellant was currently working four hours per day in accordance with permanent restrictions provided under OWCP File No. xxxxxx959.

In a September 22, 2016 report, Dr. Christopher P. DeCarlo, specializing in sports medicine, noted that appellant worked for the employing establishment since 1984 with a period of contested termination from November 2003 to May 2006. He explained that appellant was a letter carrier until she was sent home in March 2012, without available work within her restrictions. Dr. DeCarlo indicated that appellant returned to work as a customer care agent in March 2013. He explained her duties as a customer care agent and her restrictions since June 17, 2016, which he advised included being restricted from all fine manipulation (including keyboarding) and he noted she had been sent home without available work since June 23, 2016. Dr. DeCarlo continued to describe appellant's history work and her history of injury.

Dr. DeCarlo noted that appellant's complaints included tingling and numbness in all fingers of both hands with constant deep aches in her knuckles and tightness and locking in all of her fingers and thumbs. He noted that x-rays of the bilateral fingers and hands were unremarkable. Dr. DeCarlo examined appellant and diagnosed "possible early onset osteoarthritis of bilateral fingers with finger strain" on the right and left. He opined that it "appears that [appellant], since she was doing repetitive-type work, especially keyboarding and mouse use and writing for a number of years, seems to be developing an early onset of osteoarthritis due to these repetitive activities throughout the years working for the [employing establishment]." Dr. DeCarlo recommended that appellant return to modified duty with limitations of intermittent lifting of 15 pounds, sitting and standing four hours a day; walking three to four hours a day; climbing, bending, stooping, twisting, and pushing and pulling three hours a day; simple grasping two hours a day; and no keyboarding or fine manipulation. He completed duty status reports on September 22 and October 28, 2016 with the above-noted restrictions.

By decision dated November 15, 2016, OWCP denied appellant's claim. It found that the evidence submitted was insufficient to establish that the injury and/or event(s) occurred as alleged.

---

<sup>4</sup> OWCP also noted that no medical evidence was received after it requested that appellant provide a diagnosis of the condition(s) resulting from her injury and a physician's opinion with supporting explanation as to how her injury resulted in the condition(s).

On November 21, 2106 appellant, through counsel, requested a telephonic hearing, which was held on June 9, 2017. During the hearing, appellant described her position and explained that she began working four hours per day in 2015. She indicated that she did keyboarding work for about three and a half out of four hours. Appellant denied that her workstation was ergonomic and indicated that she had new symptoms commencing in 2016 in most of her fingers on both hands. She also denied nonwork repetitive activities. Appellant clarified that her work hours were reduced to four hours per day, four days per week in 2015 due to her carpal tunnel symptoms, which were accepted as part of a prior claim. She explained that, in 2016, she increased to working eight hours a day on December 31, 2016, and reduced to working four hours on June 2, 2017.

Dr. DeCarlo continued to submit duty status reports.

In an October 28, 2016 progress report, Dr. DeCarlo noted that appellant returned for complaints of continued stiffness and tightness in the fingers of both hands. He found tenderness to palpation in all fingers and the thumbs on both hands at the proximal interphalangeal joints with increased pain with flexion and extension of the joints. Dr. DeCarlo diagnosed “possible early onset osteoarthritis of bilateral fingers with finger strain.” He advised that appellant’s modified duties remained the same.

By decision dated July 19, 2017, OWCP modified the November 15, 2016 decision. It accepted that appellant used a keyboard and/or mouse intermittently for less than 30 minutes of each hour in the performance of duty. However, the claim remained denied because the medical evidence of record was insufficient to establish a firm diagnosis of a medical condition, causally related to the accepted work factors.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>5</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>6</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is

---

<sup>5</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>6</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>7</sup>

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.<sup>8</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>9</sup>

### **ANALYSIS**

The Board finds that appellant has not met her burden of proof to establish an injury causally related to the accepted factors of her federal employment.

In its July 19, 2017 decision, OWCP accepted as factual that appellant used a keyboard and/or mouse intermittently for less than 30 minutes of each hour while in the performance of duty as a part of her customer care duties. However, it further found that she submitted insufficient medical evidence to establish a medical condition caused or aggravated by these activities.

In support of her claim, appellant submitted reports from Dr. DeCarlo. In a September 22, 2016 report which Dr. DeCarlo noted appellant's history, included that she returned to work as a customer care agent in March 2013. He explained her duties as a customer care agent and her restrictions, which he advised included being restricted from all fine manipulation on June 17, 2016 (including keyboarding) and noted that she was sent home without available work since June 23, 2016. Dr. DeCarlo diagnosed "possible" early onset osteoarthritis of bilateral fingers with finger strain on the right and left. He opined that appellant seemed to him to be developing an early onset of osteoarthritis due to repetitive work activities using a keyboard and mouse. The Board notes that Dr. DeCarlo diagnosed only a "possible" condition and therefore offered a speculative opinion. The Board has long held that medical opinions that are speculative or equivocal in character have little probative value.<sup>10</sup>

In an October 28, 2016 form report, Dr. DeCarlo gave examination findings and diagnosed possible early onset osteoarthritis of her bilateral fingers with finger strain. He also provided continued work restrictions. Dr. DeCarlo offered no opinion in this report as to the cause of appellant's bilateral hand and finger conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value

---

<sup>7</sup> *Id.*

<sup>8</sup> See *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *Supra* note 6.

<sup>10</sup> *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

on the issue of causal relationship.<sup>11</sup> Therefore, this report is insufficient to establish appellant's claim.

On appeal counsel argues that appellant submitted "excellent medical reports showing causation" and that the claim should have been accepted based upon this medical evidence of record. However, as found herein, the medical evidence of record was insufficient to establish that appellant sustained an employment-related injury.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish an injury causally related to the accepted factors of her federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the July 19, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 18, 2018  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

---

<sup>11</sup> See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).